IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4140 OF 2005

Shri. Janu Basavraj Mistry ...Applicant

Vs.

The State of Maharashtra ...Respondent

Shri. M.P.Dalvi with Raja Thakare for the Applicant.
Shri. R.Y.Mirza A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATED : JULY 06, 2005.

P.C.:

1. Heard Advocate appearing for the Applicant and learned A.P.P. for the State. Offence alleged against the Applicant and the co-accused is punishable under section 302 read with section 34 of the Indian Penal Code. The Applicant claims bail on the ground of parity as well as on merits.

2. Application made by the Applicant and the co-accused before the Sessions Court for bail was rejected so far as the Applicant is concerned and the co-accused Santosh Mishra was ordered to be enlarged on bail. Perusal of the order shows that the co-accused was ordered to be enlarged on bail as he is a physically handicapped person from his birth and he has only two fingers to his right hand. Therefore, the case of the Applicant cannot be considered on the

ground of parity. So far as merits are concerned, my attention has been invited to the statements of the witnesses. To some extent the learned Advocate for the Applicant is right in submitting that the statement of Sahebrao is inconsistent with the statement of the complainant. However, the complicity of the Applicant is clearly reflected from all the statements. There is a recovery of weapon at the instance of the Applicant. The Post Mortem Notes show about ninteen injuries on the person of the deceased. Some of the injuries are stab wounds and incise wounds. The cause of death as reflected from the Post Mortem Notes is due to penetrating stab injury in the heart and liver by sharp-aged, pointed weapon. The knife recovered at the instance of the accused is stated to be very sharp on both the sides. In view of this position and considering the gravity of allegations against the Applicant, the learned Sessions Judge has rejected the Application for bail. I find no reason to take a different view from the view taken by the learned Sessions Judge. Hence, Application is rejected.

JUDGE